

UNITED STATES DISTRICT COURT

DISTRICT OF DELAWARE

CRYOVAC, INC., Plaintiff

vs.

PECHINEY PLASTIC PACKAGING, INC. Defendant.

SUBPOENA IN A CIVIL CASE**CASE NUMBER:** Civil Action No. 04-1278-KAJ

TO: RatnerPrestia P.C.
 Nemours Building
 1007 Orange Street, Suite 1100
 P.O. Box 1596
 Wilmington, DE 19899

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): See Schedule A.

PLACE YOUNG CONAWAY STARGATT & TAYLOR, LLP
 The Brandywine Building, 17th Floor
 1000 West Street
 Wilmington, Delaware 19801

DATE AND TIME

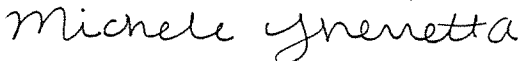
June 9, 2006; 9:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which a person will testify. Federal Rules of Civil Procedure. 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE ATTORNEY FOR PLAINTIFF OR DEFENDANT) DATE



Michele Sherretta, Attorney for Plaintiff Cryovac, Inc..

5/25/06

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Michele Sherretta
 Young Conaway Stargatt & Taylor, LLP
 The Brandywine Building, 17th Floor
 1000 West Street
 Wilmington, DE 19801
 302-571-6600

(See Rule 45 of Federal Rules of Civil Procedure Parts C & D on Reverse)

GF:112

AO 88 (Rev 11/91) Subpoena in a Civil Case

PROOF OF SERVICE

SERVED	DATE 5/25/06	PLACE 1007 ORANGE ST Suite 1100 WILM DE 19899
SERVED ON (PRINT NAME) RATNER PRESTIA P.C		MANNER OF SERVICE By HAND to BRANDY ZAK at 3:50pm
SERVED BY (PRINT NAME) NICK SERIO		TITLE Process Server

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct:

Executed on 5/25/06
DATE

Nick Serio
SIGNATURE OF SERVER

Parces Inc
ADDRESS OF SERVER

230 N. MARKET ST, WILM DE 19801

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

SCHEDULE A FOR SUBPOENA

DOCUMENTS AND THINGS TO PRODUCE

The subpoena duces tecum to which this Schedule is attached requires you to produce for inspection and copying all of the following documents:

1. All documents that constitute or discuss any communication with Pechiney concerning any opinion provided by McDermott, Will & Emery to Pechiney concerning U.S. Patent No. 4,755,419.
2. All documents that constitute or discuss any communication with Pechiney concerning any opinion provided or to be provided by RatnerPrestia and/or Jonathan Spadt to Pechiney concerning U.S. Patent No. 4,755,419.

DEFINITIONS AND INSTRUCTIONS

For purposes of producing documents responsive to the foregoing subpoena duces tecum, the instructions and definitions stated below shall apply.

1. The term “McDermott, Will & Emery” shall mean McDermott, Will & Emery and all of its lawyers.
2. The term “RatnerPrestia” shall mean RatnerPrestia P.C. and all of its lawyers.
3. The term “Pechiney” shall mean Pechiney Plastic Packaging, Inc. its corporate parents, corporate subsidiaries, affiliated companies, officers, directors, managing agents, foremen, partners, joint ventures, shareholders, trustees, beneficiaries, employees, persons in control or managing the entity, persons to whom the entity is responsible or under the control or direction of, and any other related persons or entities.
4. The term “document” shall have the comprehensive meaning set forth in Rule 34(a) of the Federal Rules of Civil Procedure.
5. You shall search for all documents within your possession, custody or control,

wherever located, including any documents placed in storage facilities or in the possession of any employee, agent, representative, attorney, investigator, or other person acting or purporting to act on your behalf (whether located at their residence or place(s) of business), in order to respond fully to this Subpoena.

6. If you are aware of any document or thing requested to be produced that has been lost, discarded, destroyed, or is otherwise not available for production for any reason whatsoever, you shall provide:

A. a full identification of each such document or thing, including its author, addressee, recipient, date, and general type (e.g., letter, report); and

B. a summary of its contents or general subject matter.